



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/787,105

02/27/2004

Shlomo Dukler

DUKLERIA

4783

1444

7590

06/15/2006

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

EXAMINER

MERLINO, AMANDA H

ART UNIT

PAPER NUMBER

2877

DATE MAILED: 06/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/787,105

Applicant(s)

DUKLER, SHLOMO

Examiner

Amanda H. Merlino

Art Unit

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>6/16/04 & 7/21/04</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Objections

Claims 23 and 26-30 objected to because of the following informalities: it appears that claims 23 and 26-30 should depend on claim 19 not 17 since 17 is a method claim. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9, 11, 14-25, 27, and 30-31 rejected under 35 U.S.C. 102(b) as being clearly anticipated by Gardner et al (2002/0041372 A1).

With regards to claim 1-4, 10, 16-20, and 26, Gardner et al teach of a method and an apparatus for marking an article to allow its identification or authentication (see abstract) comprising applying to the article a unique sequence of patterns (see paragraphs 52 and 53), including invisible photo luminescent patterns, wherein each pattern has a position in the sequence, and each invisible photo luminescent pattern is characterized by at least one excitation wavelength, at least one emission wavelength, and at least one time delay, such that upon irradiation with light of the excitation wavelength said pattern emits light of the emission wavelength, and upon stoppage of said irradiation said pattern continues to emit light for a time delay, and at least two of said photo luminescent patterns have mutually different excitation wavelengths and/or

time delays. With regards to time delay, it is inherent that the patterns will continue to emit light for a time delay after excitation.

With regard to claim 5 and 21, Gardner et al teach of said invisible photo luminescent patterns have both excitation and emission wavelengths out of the visible range (see paragraph 67).

With regard to claim 6 and 22, Gardner et al teach of the absorption of visible light by said invisible patterns is the same as that of their background and the emission wavelengths of said invisible photo luminescent patterns are out of the visible range (see paragraph 19 and 52).

With regard to claims 7-9 and 23-25, Garner et al teach of the patterns of different shapes (see paragraph 109)

With regards to claim 11 and 27, Gardner et al teach of said patterns are adjacent to each other to compose a string (see figure 1).

With regards to claim 14-15 and 30-31, Gardner et al teach of wherein said invisible photo luminescent patterns are applied to the article by ink jet printing.

Claims 1, 12-13, 19, and 28-29 rejected under 35 U.S.C. 102(b) as being clearly anticipated by Auslander et al (5,542,971).

With regards to claims 1 and 19, Auslander teaches of a method and an apparatus for marking an article to allow its identification or authentication (col 1; lines 65-67 thru col 2; lines 1-11) comprising applying to the article a unique sequence of patterns (figure 2 and summary of invention), including invisible photo luminescent patterns, wherein each pattern has a position in the sequence, and each invisible photo

Art Unit: 2877

luminescent pattern is characterized by at least one excitation wavelength, at least one emission wavelength, and at least one time delay, such that upon irradiation with light of the excitation wavelength said pattern emits light of the emission wavelength, and upon stoppage of said irradiation said pattern continues to emit light for a time delay, and at least two of said photo luminescent patterns have mutually different excitation wavelengths and/or time delays. With regards to time delay, it is inherent that the patterns will continue to emit light for a time delay after excitation.

With regards to claim 12-13 and 28-29, Auslander teaches of the patterns in overlapping positions (summary of invention).

Conclusion

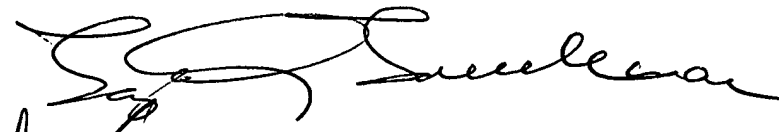

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amanda H Merlino whose telephone number is 571-272-2421. The examiner can normally be reached on Monday and Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J Toatley, Jr. can be reached on 571-272-2800 ext 77. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2877

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Amanda H Merlino
Patent Examiner
Art Unit 2877
June 7, 2006

Gregory J. Toatley, Jr.
Supervisory Patent Examiner